

The Office Action rejects claims 11-13 under 35 U.S.C. 102(b) as anticipated by U.S. Patent No. 5,460,200 to Glicksman, hereafter Glicksman.

In the Amendment entered in conjunction with the Request for Continued Examination, Applicant explained that Glicksman's device is not for connection between a waste outlet and a waste pipe – but rather is simply a valve for a balloon. In the non-final Office action, the Examiner contends that “waste outlet” and “waste pipe” are regarded “to be reflective of intended use and it is noted that the device of Glicksman is capable of such use. This contention is untenable.

The terms “waste outlet” and “waste pipe” are recited in the preamble of independent claim 11 and incorporated into the body of claim 11 by reference at lines 4 and 5. Therefore, “waste outlet” and “waste pipe” are positively recited elements of structure in claim 11 and cannot be ignored. Thus, Glicksman clearly lacks a “waste outlet” and a “waste pipe” and their relationship to the tubular housing, the wall members and the means holding the wall members as recited in independent claim 11.

The Examiner's statement that Glicksman's device is capable of use in combination with a “waste outlet” and “waste pipe” is irrelevant to an analysis under 35 U.S.C. 102(b). The issue under 35 U.S.C. 102(b) is does Glicksman disclose a “waste outlet” and a “waste pipe” and their relationship to the tubular housing, the wall members and the means holding the wall members as recited in independent claim 11? Glicksman merely discloses a toy balloon. Glicksman does not disclose a “waste outlet” and a “waste pipe” and their relationship to the tubular housing, the wall members and the means holding the wall members as recited in independent claim 11.

In addition, Glicksman lacks the following dimensional relationship recited in claim 11:

“wherein the thickness of the wall members is in the range of 0.3% to 3% of their width, the said width being measured in a direction transverse to the forward fluid flow direction”.

Moreover, the Examiner’s statement that Glicksman’s device is capable of use in combination with a “waste outlet” and “waste pipe” is unsubstantiated.

Glicksman's check valve is heat sealed into a toy balloon that is inflated by a person putting the check valve in their mouth and blowing. The check valve has two flat sheets 22 and 24, which the Examiner contends correspond to the impervious wall members recited in independent claim 11. However, there is a critical difference in that it is essential for one of Glicksman’s flat sheets to have a depression 32. In practice, depression 32 is configured so that when air is introduced into a connected balloon chamber via the valve, pressure developed by the air within the balloon chamber causes a secure closure of the passageway between the two sheets at a junction of the base portion of the depression and the opposite sheet. As explained quite clearly from line 32 of column 5 onwards, additional pressure causes greater resistance to the escape of air from within the toy balloon.

So it is clearly the case that the primary focus of Glicksman is the provision of one or more depressions along flat sheets and, consequently, the dimensions given in column 4 are entirely dependent upon this characteristic. That is, those dimensions are provided in order to enable the depression characteristic to operate to provide the secure closure between sheets 22 and 24 as described by Glicksman.

In the claimed invention, it is wholly inappropriate for the flexible impervious wall members to incorporate depressions of the type disclosed by Glicksman. If such depressions were included, they would present a

discontinuity on the surface of the wall members, which would present a site for collection of stagnant water, bacteria and mould. The accumulation of these biological hazards is naturally unacceptable in a water supply environment for hygiene reasons. In view of this, one skilled in the art would automatically dismiss Glicksman as being irrelevant prior art or as not being in any way a disclosure that Glicksman's device could be used in a plumbing environment as claimed.

For the reason set forth above, it is submitted that the rejection of claims 11-13 under 35 U.S.C. 102(b) as anticipated by Glicksman is erroneous and should be withdrawn.

It is respectfully requested for the reasons set forth above that the objection to the specification be withdrawn, that the rejections under 35 U.S.C. 112, 35 U.S.C. 102(b) and 35 U.S.C. 103(a) be withdrawn, that claims be allowed and that this application be passed to issue.

Respectfully Submitted,

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